



MEMO ENDORSED

STATE OF NEW YORK
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June 26, 2008

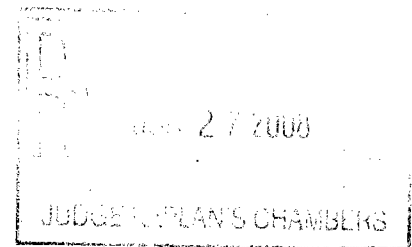
LESLIE G. LEACH
Executive Deputy Attorney General
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Assistant Attorney General in Charge
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By Hand Delivery

The Honorable Lewis A. Kaplan
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

U.S. SDNY
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Re: Estate of Valerie Young, et al. v. NYS OMRDD, et al.; 07-cv-06241 (LAK)(DCF)

Dear Judge Kaplan:

This office represents the defendants in the above-captioned action. I write to request that defendants' time to serve their motion for summary judgment be enlarged from the presently scheduled date of July 2, 2008 by thirty days from the revised close of discovery date yet to be set by this Court. This application has been made necessary because expert disclosure has not been completed due to the pendency of plaintiffs' motion for sanctions that was filed on May 14, 2008.¹ This is defendants' first request for an enlargement of the time to serve their motion for summary judgment. Although I have contacted opposing counsel today regarding this enlargement and have not yet received a response, I make this application immediately due to the approaching July 2, 2008 scheduled time for submission of the motion for summary judgment.

Under the existing Stipulation and Amended Consent Scheduling Order, revised by the Court on March 19, 2008, the parties were required to make Rule 26(a)(2) disclosures with respect to rebuttal expert witnesses on or before May 12, 2008. Although defendants served their expert's rebuttal report on plaintiffs on May 9, 2008, plaintiffs have yet to serve their expert's rebuttal report on defendants. All discovery, including expert depositions, were to be completed on or before May

¹ Plaintiffs made an application to this Court by letter, dated May 19, 2008, to amend the existing scheduling order "to adjourn the depositions of the parties' expert witnesses until twenty days after the plaintiffs' pending motion for sanctions has been determined by this Court."

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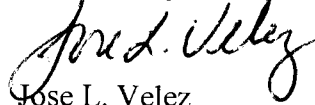
TO: Hon. Lewis A. Kaplan, U.S.D.J.
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27, 2008. However, no expert depositions have been completed to date due to plaintiffs' sanctions motion and plaintiffs' refusal to produce their expert for deposition by defendants. Finally, a joint pretrial order was required to be filed on or before July 2, 2008, with no motion for summary judgment to be served after this deadline. Due to the above, defendants are unable to proceed with their motion within the existing deadline.

Accordingly, defendants respectfully request that the time to file their motion for summary judgment be enlarged by thirty days from the revised close of discovery date yet to be set by this Court.

Respectfully submitted,

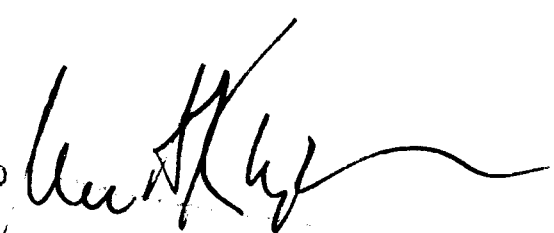


Jose L. Velez
Assistant Attorney General

cc: Jonathan Bauer, Esq.
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*Time extended to
8/1/08*

SO ORDERED



LEWIS A. KAPLAN, USDJ

7/1/08